

REMARKS

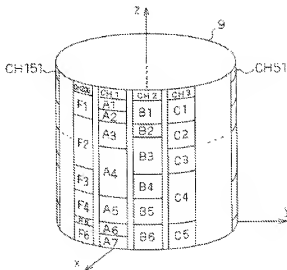
In response to the Office Communication mailed May 29, 2008 as entered in the above-captioned matter, Claims 1-7 and 9-12 were rejected under 35 U.S.C. §103(a) given Nakamura et al. (U.S. Patent Publication No. 2003/0167466) ("Nakamura") in view of U.S. Patent No. 5,583,560 ("Florin") and claims 8 and 13 were rejected under 35 U.S.C. §103(a) given Nakamura in view of Florin and Sai et al. (U.S. Patent No. 6,822,661) ("Sai"). The Applicant respectfully traverses these rejections and requests reconsideration.

Rejections under 35 U.S.C. 103(a)

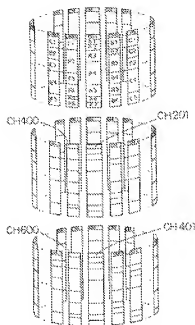
Claims 1-7 and 9-12 were rejected under 35 U.S.C. §103(a) given Nakamura in view of Florin. Prior to discussing the merits of the Examiner's position, the Applicant believes that it would be helpful to first briefly describe and characterize the Nakamura and Florin references.

The Nakamura reference

Nakamura discloses an electronic programming guide (denoted by Nakamura as an EPG in his descriptive materials) that employs a three dimension cylinder (as shown, for example, in Nakamura's FIG. 3 shown at the right) to display programming information for a large number of broadcasting channels.



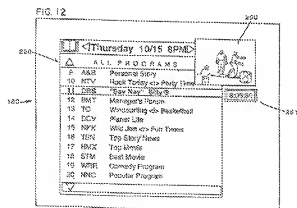
Nakamura specifies placing programming information for each of 200 different channels on each such cylinder and then notes that additional cylinders can be provided to accommodate a greater number of channels. Nakamura depicts such an arrangement in his FIG. 17 (shown at the right) where three such cylinders are provided, each depicting 200 different channels.



As per Nakamura's teachings, the sequentially listed program offerings for each channel are displayed in a vertically oriented manner, with the vertical dimension corresponding, in a general manner, to the temporal domain. Rotation of each cylinder about its axis, on the other hand, causes different channels to come into, or pass out of, view.

The Florin reference

Florin discloses a "list function" that activates a program/service listing for the current date and time. Florin depicts the list function in Fig. 12 (shown at right) where the program/service listings are shown for one specific time (Thursday, 10/15 8PM). Florin discloses that the user may press a button on a

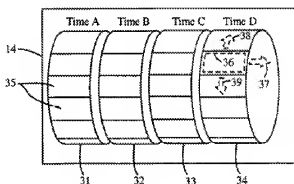


remote control device to show the program/service listing for a different date and time (Fig. 16; col. 16 lines 14-50).

According to the teachings of Florin, the list function displays for a user the program/service listing for one, and only one, time slot. A user may press a button on the remote control device to shift to view to show another time slot, but again, only the program/service listing for that one time slot is displayed to the user.

Claims 1 and 9

As clearly shown in applicant's FIG. 3 (reproduced at the right), the applicant provides for a plurality of three dimensional cylinders where the horizontal axis corresponds to the temporal domain and where each of the cylinders corresponds to a different time.



This is clearly different from Nakamura and Florin. In Nakamura, time extends along the vertical axis and each cylinder corresponds to a large number of different times. In Florin, only a single time slot is shown at one time.

This difference is well set forth in both claims 1 and independent claim 9. For example, claim 1, as amended, reads in pertinent part, a “browsing and selection interface [that] is depicted as a plurality of three dimensional objects, wherein each of the plurality of three dimensional objects corresponds to a different time.”

The Office Action rejects claims 1 and 9 given Nakamura in view of Florin. As is noted in the Office Action, Nakamura is silent with respect to any such teaching or suggestion because Nakamura does not disclose a plurality of 3-dimensional objects that each correspond to a different time. Florin, however, also fails to disclose this missing content.

The Office Action suggests relying upon Florin for its teaching that a program guide can be configured so as to display only programs from a specific time period. Florin, however, does not disclose showing program listings for a plurality of time periods but rather teaches quite the opposite – to meet Florin’s purposes, Florin dictates that only program listings for a single time period be displayed at any one time.

Taking these teachings of both Nakamura and Florin in context, the fair result would be one or more cylinders that each present 200 channels worth of programming content for only a single time of day. In practice, this would be slicing Nakamura’s cylinders horizontally to leave only a single small disc that would show, for each of 200 channels, the programming information that is available at the selected time. Such a result, of course, is quite different from that which the applicant has presented in claims 1 and 9.

Aside from the applicant’s own teachings, there is no teaching, motivation, or suggestion to combine Nakamura with Florin in a way that would run contrary to this natural combination of these references and that would yield as a result the applicant’s claimed subject matter. The MPEP states that:

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;**
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

See MPEP, § 2141 (citing *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986)). Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. See MPEP § 2143.01 (citing *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006))

As recognized in the Office Action, “Florin discloses that a program guide can be configured so as to display only programs from a specific time period, on order for users to be able to compare all the programs that are currently on, or will be on a certain time in the future.” Florin does not suggest that it would be advantageous or desirable to show two time slots at the same time and in fact more fairly appears to teach the exact opposite. Nakamura does not disclose three dimensional objects that each correspond to a different time slot and in fact appears to teach, again, quite the opposite (i.e., three dimensional objects that each correspond to a large number of time slots).

Dependent claims 2-8 and 10-13

The remaining claims, including claims 8 and 13 which have been rejected under 35 U.S.C. 103(a), are ultimately dependent upon one of claims 1 and 9, which claims have been shown to be allowable above. While the applicant believes that other arguments are available to highlight the allowable subject matter presented in various of the dependent claims, the applicant also believes that the comments set forth herein regarding allowability of the independent claims are sufficiently compelling to warrant present exclusion of such additional points for the sake of brevity and expedited consideration.

Conclusion

There being no other objections to or rejections of the claims, the applicant respectfully submits that claims 1-13 may be passed to allowance.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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By: _____



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